THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 06.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.2277 of 2001

Lakshmi ... Appellant

vs.

1. The District Collector,
Salem.

2. The Special Tahsildar,
Aadi Dravida & Tribal Welfare,
Omalur Taluk,
Salem District. ... Respondents

Appeal under Clause 15 of the Letters Patent against the order dated 27.11.2000 made by the learned single Judge (KGJ) in W.P. No.19878 of 2000 presented under Article 226 of the Constitution of India to issue writ of certiorari calling for the records of the second respondent which culminated in the passing of the impugned order dated 26.7.2000 (A) and quash the same is violative of Article 14 of the Constitution of India.

For Appellants : Ms.G.Thilakavathi

For Respondent : Mr.D.Krishnakumar,
Spl. Govt. Pleader.

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J U D G M E N T

P. SATHASIVAM, J.

The above Writ Appeal is directed against the Order of the learned single Judge, dated 27.11.2000, made in W.P.No.19878 of 2000.

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2. The appellant/writ petitioner by name Lakhsmi filed W.P. No.19878 of 2000, questioning the proceedings of the Special Tahsildar, Adi Dravida & Tribal Welfare, Omalur Taluk, Salem, dated 26.07.2000. The main grievance of the petitioner is that she was not given notice or opportunity by the Special Tahsildar to put forth her objection with reference to the acquisition proceedings.

3. It is her claim that the property in S. No.161/1, Taramangalam Village, was purchased by one Ammasi @ Chinnaponnu from third parties in the years 1967, 1969 and 1978. Out of 5.37 acres of land, the said Ammasi purchased 4.03 acres. The balance area measuring 1.34 acres was purchased by one Ramai Ammal. The appellant/writ petitioner is the daughter-in-law of the said Ammasi. An extent of 1.49 acres was purchased by the Writ Petitioner from Ammasi on 12.06.2000. From the said date onwards, according to her, she is the owner of the said land. It is further seen that the said land was sought to be acquired by the 2nd respondent under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978). It is also the grievance of the petitioner that when her vendor informed the second respondent about the sale of the land and change of patta in her name, she was not given notice or opportunity to put forth her stand. At that stage, she approached this Court by way of filing Writ Petition.

4. The learned single Judge, by order dated 27.11.2000, dismissed the said Writ Petition with an observation that if no award was passed, the petitioner is entitled to notice for the Award enquiry. Not being satisfied with the said direction, the writ petitioner has preferred the present Writ Appeal.

5. The appellant/petitioner has filed copy of the sale deed dated 12.06.2000 (Document No.1064 of 2000), which shows that she purchased the land from Ammasi @ Chinnaponnu. Thereafter, on the application made by her, mutation in the revenue records was effected by the officer concerned. This is evident from the kist receipt issued in her name, which is available at page 15 of the additional typed set of papers. Learned counsel for the appellant has brought to our notice that, on 10.08.2000 itself, the appellant's vendor, namely, Ammasi, sent a representation to the second respondent informing the sale transaction dated 12.06.2000. It is the grievance of the appellant that in spite of the same, she was not given a notice or opportunity by the second respondent to put forth her objection with reference to the acquisition proceedings.

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6. We are satisfied that, after purchase of the land on 12.06.2000 and payment of kist, as evident from the receipt, which is available at page 15 of the additional typed set of papers as well as the information furnished by the said Ammasi on 10.08.2000 to the second respondent, the petitioner should have been issued with the notice in Form-1 under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979. The learned Judge failed to consider this aspect and committed an error in dismissing the Writ Petition with a limited relief, viz., directing the 2nd respondent to issue notice in the Award Enquiry. On this ground, the order of the learned Judge is set aside. The 2nd respondent is directed to issue notice in Form-1 under Rule 3(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979, to the appellant and proceed further in accordance with law.

7. Writ Appeal is allowed to the above extent. No costs. It is made clear that the above order is applicable to the appellant/writ petitioner alone.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The District Collector, Salem.

2. The Special Tahsildar, Aadi Dravida & Tribal Welfare, Omalur Taluk, Salem District.

1 cc to Mr.G.Thilagavathi, Advocate, SR.17776
1 cc to Additional Government Pleader, SR.17357

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